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JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
F. Thomson Leighton, et. al.	:	
Application No. 09/866,884	:	ON PETITION
Filed: May 29, 2001	:	
Attorney Docket No. 12293:22	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 22, 2005, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed April 20, 2005. A Notice of Abandonment was mailed on November 17, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the \$790 filing fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment, Information Disclosure Statement (IDS) and \$1,020 for a three (3) month extension of time, all filed with the instant petition. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2157.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions